

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CR-6080L

v.

MIGUEL LARA,  
GLADYS LARA,  
ORLANDO ALFARO (aka “Tito”),  
ORSINI L. VAZQUEZ (aka “Pitufo”),  
MELVIN RIVERA (aka “Macuco”),  
JEANETTE BURGOS (aka “Gigi,” aka “Glenda”),  
MARISOL ZAPATA,  
ALBA LOZANO,  
AGUSTIN RAMOS (aka “Flaco”),  
RAFAEL LLERA,  
ARQUELIO J. TORRES (aka “John”),  
WANDA BERMUDEZ,  
RACHEL WYAND, and  
JERREL LEDATE APPLEBERRY (aka “Dale”),

Defendants.

---

The Court referred all pretrial matters in this multi-defendant multi-count indictment to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). Three of the defendants, Miguel Lara (“Lara”), Melvin Rivera (“Rivera”), and Jerrel Ledate Appleberry (“Appleberry”) filed motions to suppress evidence. Magistrate Judge Payson conducted suppression hearings and, at its conclusion, issued a lengthy Report and Recommendation (Dkt. #367)


recommending that the motions to suppress filed by these three defendants be denied. None of the defendants have filed objections to the Report and Recommendation. One of them, Appleberry, has advised the Court that he intends to plead guilty and he is being transported to the District for that purpose. As to the other two defendants, Lara and Rivera, I have reviewed the thorough Report and Recommendation and the transcript of the suppression hearing (Dkt. #344) has been prepared and available for my review.

Rivera moved to suppress telephone conversations intercepted pursuant to court-ordered wiretaps. Lara moved to suppress photographic identification, as well as statements and physical evidence seized. I have reviewed Magistrate Judge Payson's thorough Report and Recommendation as to each of those matters, and I agree with her analysis of the facts and her conclusions of law. I adopt, therefore, the Magistrate Judge Payson's Report and Recommendation in all respects.

#### CONCLUSION

I adopt the Report and Recommendation of United States Magistrate Judge Marian W. Payson (Dkt. #367). The motion to suppress filed by defendant Miguel Lara (Dkt. #349) is denied. The motions to suppress filed by defendant Melvin Rivera (Dkt. ##259, 364) are denied. The motion to suppress filed by defendant Jerrel Ledate Appleberry (Dkt. #185) is denied.

IT IS SO ORDERED.

  
\_\_\_\_\_  
DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
January 11, 2006.

